

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
:
DARREN FRANKLIN GALLOWAY, :
:Plaintiff, :
:-v- :
:COMMISSIONER OF SOCIAL SECURITY, :
:Defendant. :
:
-----X

19 Civ. 3400 (PAE) (JLC)

OPINION & ORDER

PAUL A. ENGELMAYER, District Judge:

Currently pending is a motion for attorneys' fees, pursuant to the Social Security Act (the "Act"), 42 U.S.C. § 406(b), by plaintiff's counsel Michael S. Aranoff ("Aranoff"). Dkts. 26–27. The motion follows a favorable decision for plaintiff, Darren Franklin Galloway, by defendant, Commissioner of Social Security ("Commissioner"), after remand of this case to the Commissioner. Before the Court is the May 6, 2022 Report and Recommendation of the Hon. James L. Cott, United States Magistrate Judge, recommending that the Court grant the motion for fees in the amount of \$6,675, and that fees in the amount of \$1,794.07 be returned to Galloway by Aranoff. Dkt. 35 ("Report"). The Court incorporates by reference the summary of the facts provided in the Report. For the following reasons, the Court adopts this recommendation.

DISCUSSION

In reviewing a Report and Recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept those portions of the report to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the

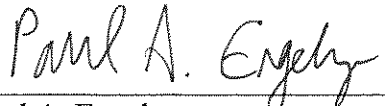
record.” *Ruiz v. Citibank, N.A.*, No. 10 Civ. 5950 (KPF), 2014 WL 4635575, at *2 (S.D.N.Y. Aug. 19, 2014) (quoting *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at *4 (S.D.N.Y. July 8, 2009)); *see also, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

As no party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Cott’s thorough and well-reasoned Report reveals no facial error in its conclusions; the Report is therefore adopted in its entirety. Because the Report explicitly states that “failure to object within fourteen (14) days will result in a waiver of objections and will preclude appellate review,” Report at 8, the parties’ failure to object operates as a waiver of appellate review. *See Caidor v. Onondaga Cty.*, 517 F.3d 601, 604 (2d Cir. 2008) (citing *Small v. Sec’y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)).

CONCLUSION

For the foregoing reasons, the Court grants the motion for fees in the amount of \$6,675, and orders that fees in the amount of \$1,794.07 be returned to Galloway by his counsel. The Court respectfully directs the Clerk to mail a copy of this decision to plaintiff at the address on file.

SO ORDERED.


Paul A. Engelmayer
United States District Judge

Dated: July 18, 2022
New York, New York